

REMARKS**A. Rejections Under 35 U.S.C. §112**

Various portions of the language of claims 3 and 4 were deemed to render the claims indefinite. The claims have been amended to overcome the rejections.

B. Rejections Under 35 U.S.C. §102

Claims 1-5 are pending after cancellation of claims 6 and 7. Claims 1-4 were rejected as being anticipated by Prochazka (U.S. Pat. No. 5,562,707). In addition, claims 1-2 and 4-5 were rejected as being anticipated by Feingold (U.S. Pat. No. 4,871,351).

Claim 1 is drawn to a system whereby an implantable medical device (IMD) receives data from an external physiological signal sensor and processes the information to control the delivery of therapy. More specifically, the IMD has a processor that controls delivery of therapy by processing the physiological data it receives from the external sensor module, which together provide closed loop self-monitoring and therapy delivery. According to the office action, reliance on Prochazka to support the anticipation rejection is based on the embodiment of Figure 7 showing an implantable microstimulator 72. However, there is no disclosure in Prochazka that microstimulator 72 includes processor capability. In fact, the disclosure in Prochazka indicates that control of therapy delivery is provided by commands from box 15 (see col. 6, lines 49-51). Accordingly, Prochazka cannot anticipate amended claim 1. Claims 1-5 are therefore patentable over Prochazka.

The office action acknowledges that Feingold normally functions as an open loop infusion system operating in accordance with pre-programmed profiles and only

intermittently accesses a physiological sensor. The office action sidesteps the deficiency in Feingold by the merely conclusory proposition that Feingold teaches to access the sensor more frequently and thus amounts to a continuous closed loop system. Feingold teaches no such thing. The clear description at col. 2, lines 57-66, is that the system can be predictive of when another sensor reading can be accessed based upon the present conditions and dosage being administered. Feingold does not teach continuous physiological data collection. In any event, Feingold also does not disclose an IMD having a processor that controls delivery of therapy by processing the physiological data it receives from the external sensor module. In col. 2, lines 44-48, Feingold expressly teaches:

"It is to be noted that in the present invention, the output of the sensor means is fed to the external controller. The sensed data is processed in the external controller which then transmits appropriate signals to the implanted device to infuse the appropriate dosage."

Accordingly, the rejection of claims 1 as being anticipated by Feingold is in error and should be withdrawn. Claims 1-5 are patentable over Feingold. In addition, the rejection of claim 3 as being unpatentable for obviousness based on Feingold and Amano (U.S. Pat. No. 5,941,837) should be withdrawn in view of the distinction of the amended claims over Feingold.

C. Conclusion

Based upon the amendments to the claims, Applicant submits that all pending claims are in condition for allowance and request that a notice of allowance be issued in due course. No new matter has been introduced as a result of the amendments.

Respectfully submitted,

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